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city streets. *Lange v. La Crosse, etc., Co.*, 95 N. W. Rep. 952 (Wis.). Wisconsin cases on this subject are, however, of doubtful value, since no case in that jurisdiction has decided that ordinary electric roads are not added burdens. On principle the same test should apply to both city streets and country roads. The test proposed by Mr. Dowling appears to be a satisfactory one.

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**THE PROBATION SYSTEM.**—It is said in a recent article that the probation system, existing in several states of this country, is now under official discussion in England. *The "Probation System" in the United States*, Anon., 114 L. T. 407 (Feb. 28, 1903). Under the Massachusetts system, which is described as typical, a convicted criminal is not sentenced, when the chances of his reformation are good, as in a case of a first offense, but is released on condition that for a stated period he lead an orderly life within certain conditions imposed by the judge. If these conditions are not observed, the offender is rearrested and sentenced.

It is interesting to consider the justification for this practice under the different theories of punishment. Probably the oldest idea is that punishment is founded on vengeance. Being supported entirely by emotion, it would seem impossible to ascertain by reason or experiment whether any particular system of punishment follows this theory. But the probation system, which omits the penalty entirely in certain cases, could hardly rest upon any doctrine founded solely on the desire for revenge. The closely related theory of "retribution" reduced to its lowest terms is that the injury to society plus an equal injury to the individual leaves nobody injured. *WHAR. CR. L.*, Chap. I. This doctrine requires some degree of punishment, and would seem to afford no foundation for the system under discussion. A more modern and more satisfactory theory is that society punishes crime to prevent crime. *HOLMES COM. L.* 43; 64 Am. St. Rep. 378, note. Whether society in seeking to prevent crime is acting from a desire to protect itself or from other reasons, is an ethical question of little practical importance to law-makers. In any case under this theory the object of the punishment is to reduce the chances of a repetition of the criminal act. This gives a practical test to apply in determining the proper penalty, and would seem to completely justify the probation system.

It has been suggested by scientific writers that all crime is but the result of a diseased condition. *ROSENBERG AND ARONSTAM'S SOCIOLOGIC STUDIES*, Chap. I. The probation system seems to follow this, and seeks to apply a rational restraint upon the criminal. Just as the medical profession of to-day treat many diseases by merely prescribing a hygienic life, so the law-makers under this system, by compelling a period of law-abiding, seek to eradicate the criminal tendency. The system is furthermore in line with other modern changes in inflicting punishments. Statutes are generally prevalent seeking to encourage good behavior in a convicted criminal by granting a deduction from the sentence, and certain jurisdictions have adopted the indeterminate sentence law. *ILL. STS. (Starr & Curtis) § 646*; *IND. ACTS*, 1897, p. 219.

The theory of probation, that crimes are sometimes best prevented by omitting the punishment, seems sound and, according to the article under discussion, the results attained in Massachusetts are highly satisfactory. Should England adopt it, she will be acting along the lines of modern development, looking to a more carefully graded and more rational system of punishment.

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**THE DECISION IN THE MERGER CASE.** By J. H. Thorndike. Boston: Little, Brown and Company. 1903. pp. 36. 8vo.

This is a review of the decision of the circuit court in the case of the United States *v.* Northern Securities Co. The chief function of the pamphleteer, in the discussion of great problems like this of the extent of the law against monopoly, is to make plain the issues upon which the final decision must depend.